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United States Senate

SELECT COMMITTEE ON INTELLIGENCE
WASHINGTON, DC 20510-6475

January 23, 2014

The Honorable John Brennan
Director
Central Intelligence Agency
Washington, D.C. 20505

Dear Director Brennan:

You informed Vice Chairman Chambliss and me on January 15, 2014, that, without prior consultation or approval from the Committee, CIA personnel had conducted one or more searches of the computer network at an offsite facility that the CIA had assigned exclusively to the staff of the Senate Select Committee on Intelligence (SSCI) for use in the Committee's Study on the CIA Detention and Interrogation Program. You also told Senator Chambliss and me that the CIA took this action to determine whether a particular document or set of documents (what we have called "the internal review" or "the Panetta review") was present on the Committee computer network.

As you know, I am very concerned by these actions. First, after consultation with other Senators and with the Senate Legal Counsel, I believe that depending on the facts involved, this search may have been inconsistent with the separation of powers principles embodied in the Constitution and essential to effective congressional oversight of intelligence activities. Second, the search may have violated the Fourth Amendment, the Speech and Debate Clause of the Constitution, various statutes (including federal criminal statutes, such as the Computer Fraud and Abuse Act), and Executive Order 12333. Third, the search violates a written agreement between the CIA and the Committee that was reached at the outset of the Study in 2009 to create a "walled-off" computer network for Committee use at the offsite facility.

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I understand that, following my letter to you of January 17, 2014, asking you to suspend all searches of the Committee network, you agreed that the CIA would suspend any further searches, as per our prior written agreements.

The computer network in question was, according to the written agreement between the CIA and the Committee in 2009, to be "walled-off" from CIA personnel except for narrow cases involving technical support and assistance. The network was recognized to contain SSCI work product, and was not to be accessed or affected by CIA personnel without prior approval of the Committee.

The fact that the computers and the computer network were provided to the SSCI by the CIA at a CIA-leased facility does not affect the SSCI's exclusive rights with regard to the network. In fact, the Committee's strong preference in 2009 was to have the CIA provide all information relevant to the Study to the Committee at its offices in the Hart Senate Office Building, as is standard procedure for Committee oversight work. It was only because of the written agreement between the Committee and the CIA, that assured the Committee of the protections for SSCI information and materials at the CIA facility, that we agreed to the present arrangement.

I have the following initial questions about the CIA breach of this agreement and the CIA search of the Committee network. The Committee may also seek an independent review of this action.

1. Who first suggested the search? Was it personally approved by you? If not, who approved the search?

2. For what specific purpose or purposes was the search conducted?

3. Was legal guidance sought and provided prior to the approval? Did that legal guidance take into account the written agreements with the Committee prohibiting such a search without the Committee's approval?

4. What was the legal basis for the search of the Committee computer network? Did CIA seek and obtain legal process in advance of conducting this search?

5. When did the search of the Committee network take place, where, and by whom? Did the search involve any contractors? Was the search a one-time event, or were there multiple searches of the Committee network? If the latter, when did they occur, when did they end, and why did they end?

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6. What were the directions provided to the individuals who conducted the search? How, specifically, was the search conducted?

7. What materials were searched and reviewed by CIA personnel or CIA contractors. What parts of the Committee computer network were searched? Did this search include internal communications between Committee staff or personal notes or other work-product of Committee staff? Was any process used to minimize the extent of the search of such sensitive materials? Was the search limited to the majority staff's network?

8. Did the CIA physically enter either of the two combination-locked secure rooms where the Committee computer network and the Committee's research materials and work product are located? If so, were any hard copy documents in those rooms reviewed or searched?

9. Did the CIA alter or remove any data from the Committee network? If so, what specifically was altered or removed?

10. Does the CIA have any materials reviewed during the search in its possession? If so, who has custody of these records and materials?

11. Who, if anyone, outside of the CIA was aware of the possibility or plans to search the Committee network prior to the search occurring?

12. Who, if anyone, outside of the CIA, has the CIA consulted since the search? Specifically, have CIA personnel informed the Director of National Intelligence, the Department of Justice, the Federal Bureau of Investigation, the White House, or the President's Intelligence Advisory Board and its Intelligence Oversight Board?

Finally, at our January 15, 2014, meeting, you raised concerns about the security of the CIA's classified computer systems, alleging the possibility that Committee staff had obtained the internal review by working to gain unauthorized access to CIA computers or databases. They did not. The internal review was provided to Committee staff at the CIA-leased facility where the Committee Study work was conducted. Due to the nature of the computer systems at the facility, the Committee has no way to determine who provided the documents and for what purpose.

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As I noted before, I view the CIA's actions with significant concern. I intend to brief the full SSCI membership of this matter shortly and would appreciate your answers to my questions as soon as can possibly be provided, and no later than Monday, January 27, 2014.

Sincerely yours,

Dianne Feinstein
Chairman

cc: Members, Senate Select Committee on Intelligence
The Honorable Jim Clapper, Director of National Intelligence
Ms. Kathryn Ruemmler, White House Counsel

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